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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,631	07/28/2003	Fred Monroe	03-748	4899

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MBHB/TRADING TECHNOLOGIES
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CHICAGO, IL 60606

EXAMINER	
AKINTOLA, OLABODE	
ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
09/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/628,631	MONROE ET AL.	
	Examiner	Art Unit	
	OLABODE AKINTOLA	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 22-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 22-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/25/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 10, 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ankireddipally et al (USPAP 200200116205) (hereinafter referred to as Ankireddipally) in view of Garber (U.S. Patent No. 5963923) (hereinafter referred to as Garber).

Re claims 1, 10, 11, 22 and 29: Ankireddipally teaches a method for sending an order to an electronic market, comprising: sending an order on behalf of a user from a first electronic market (Fig. 11, RN {10}) to a second electronic market (Fig. 11, RN {500}, section 0089), wherein the first electronic market comprises a first transaction process that is configured to automatically process transactions received from remote client devices (Fig. 11, RN {542, 544}, section 0089)

and the second electronic market comprises a second transaction process that is configured to automatically process transactions received from remote client devices Fig. 11, RN {546}, section 0089) and wherein the second transaction process is different from the transaction process (section 0089), such that the action of sending the order is taken on behalf of the trader by the first electronic market itself using a microprocessor executing one or more instructions (Fig. 11, section 0089).

Ankireddipally does not explicitly teach that the first and second electronic market each comprises computerized matching process that is configured to automatically match bids and offers received from remote client devices. However, Garber teaches first and second electronic market each comprises computerized matching process that is configured to automatically match bids and offers received from remote client devices (col. 4, lines 38-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify and apply Ankireddipally's invention to an electronic exchange markets as taught by Garber whereby primary CX 10 and 500 represent first and second electronic markets respectively. Orders that cannot be matched in one of the markets can be sent to the other as exemplified in the Ankireddipally RN {542, 544 and 546}, thereby making the system more efficient.

Re claim 2: Ankireddipally teaches the step of sending is performed when a condition is satisfied (section 0087)

Re claim 3: Ankireddipally teaches the step of receiving a first order at the first electronic market (section 0031).

Re claim 4: Ankireddipally teaches the step wherein the condition comprises at least a portion of the first order being filled (section 0089).

Re claim 5: Garber teaches the step of receiving a market event request message at the first electronic market that establishes a condition (section 0087).

Re claim 6: Garber teaches the step wherein the condition is in the form of a lookup table (section 0087).

Re claims 7-8, 23-25 and 30: Ankireddipally teaches sending a message from the first electronic market to the second electronic market instructing the second electronic market to modify the order sent on behalf of the trader, wherein the action of sending the message is taken on behalf of the trader by the first electronic market itself, wherein the modify message is sent on behalf of a trader when a condition has been satisfied (section 0087).

Re claims 26-27: Ankireddipally does not explicitly teach wherein the condition is based on news events or market events external to the first electronic market. However, news and market events external to an exchange are well known factors the influence trading in electronic markets as admitted by applicant's own disclosure (see Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to include these features. One would have been motivated to do so such that upon receiving market information, appropriate actions can be taken by the system including adjusting or canceling the transaction.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ankireddipally in view of Garber as applied to claim 7 above, and further in view of Hauk et al. (U.S. Patent Application No. 20030126068) (hereinafter referred to as Hauk).

Re claim 9: Ankireddipally in view of Garber are as discussed above. Ankireddipally in view of Garber do not explicitly teach the step wherein the electronic market comprises a matching engine that matches bids and offers for a given market according to a first-in-first-out (FIFO) matching algorithm. Hauk teaches the step wherein the electronic market comprises a matching engine that matches bids and offers for a given market according to a first-in-first-out (FIFO) matching algorithm (section [0066]: *An algorithm for trade matching, based on prorated or FIFO trading match scheme could be incorporated*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ankireddipally/Garber to include the step wherein the electronic market comprises a matching engine that matches bids and offers for a given market according to a first-in-first-out (FIFO) matching algorithm as taught by Hauk. One would have been motivated to do this because FIFO matching scheme is old and well known in the art.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ankireddipally in view of Garber as applied to claim 1 above, and further in view of Wilton et al. (U.S. Patent No. 6519574) (hereinafter referred to as Wilton).

Re claim 28: Ankireddipally in view of Garber are as discussed above. Ankireddipally in view of Garber do not explicitly teach spread trade strategy. Wilton teaches spread trade strategy (col. 3,

lines 55-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Garber to include spread trade strategy as taught by Wilton. One would have been motivated to do this because spread trading allows parties to trade one commodity for another commodity.

Response to Arguments

Applicant's arguments filed 3/25/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case the operations of primary CX 10 and 500 are different. Since primary CX 10 can not perform the operation designated in the operation request 546, it sends the request to primary CX 500 which is capable of performing the operation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571- 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA

/Hani M. Kazimi/
Primary Examiner, Art Unit 3691